

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN**

In re: Keith C McDaniel
Martha D McDaniel
Debtors

Case No. 19-29020-BEH
Chapter 13

**NOTICE OF MOTION FOR RELIEF FROM AND A
MODIFICATION OF THE AUTOMATIC STAY**

The City of Milwaukee Water Works ("City"), by its attorneys, Tearman Spencer, City Attorney, by Tyler M. Helsel, Assistant City Attorney, has filed with the Court requesting an order be issued granting the City relief from and a modification of the automatic stay imposed by sec. 362(a) of the Bankruptcy Code on the grounds and for the purposes set forth in the Motion attached hereto.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to enter an order granting the City of Milwaukee a modification of the automatic stay imposed by sec. 362(a) of the Bankruptcy Code on the grounds and for the purpose set forth in the Motion attached hereto or if you want the Court to consider your views on the Motion, then within fourteen (14) days of the date of this Notice, you or your attorney must send a written objection and a request for a hearing to the Court, at the following address:

Clerk, U.S. Bankruptcy Court
Eastern District of Wisconsin
U.S. Courthouse, Room 126
517 East Wisconsin Avenue
Milwaukee, WI 53202-4581

Such objection should briefly state the grounds for your objection.

If you mail your objection and request for a hearing to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to:

Attorney Tyler M. Helsel
Assistant City Attorney
200 East Wells Street, Suite 800
Milwaukee, WI 53202

Additionally, you must attend the hearing on this matter, if any, that will be held at a date and time to be determined by the Court, notice of which will be sent to you.

If you or your attorney do not take these steps, the Court may determine that you do not oppose the relief sought in the attached Motion and may enter an order granting that relief.

Dated at Milwaukee, Wisconsin this 7 day of October, 2022.

TEARMAN SPENCER
City Attorney

/s/TYLER M. HELSEL
Assistant City Attorney
State Bar No. 1103366
Attorneys for City of Milwaukee

Drafted by:
Tyler M. Helsel
Assistant City Attorney
200 East Wells Street, Suite 800
Milwaukee, WI 53202
414-286-2601
thelse@milwaukee.gov

NOTICE: The City of Milwaukee is attempting to collect a debt and any information obtained will be used for that purpose.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN**

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Martha D McDaniel
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**MOTION FOR RELIEF FROM AND A MODIFICATION
OF THE AUTOMATIC STAY**

The City of Milwaukee Water Works ("City"), by its attorneys, Tearman Spencer, City Attorney, by Tyler M. Helsel, Assistant City Attorney, moves the Court for an order granting a modification of the automatic stay imposed by sec. 362(a) of the Bankruptcy Code, to permit the City to utilize the statutory provisions contained in Wis. Stat. Sec. 66.0809 to seek collection of post-petition, delinquent obligations for municipal services in respect of property owned and/or occupied by the Debtors. In support of such Motion, the City alleges and shows to the Court as follows:

1. Debtors filed their bankruptcy petition in this case on September 17, 2019.
2. Subsequent to the date of the bankruptcy filing, the City has provided water, sewer and other municipal services ("Services") to 2808 N 37th Street in Milwaukee, Wisconsin (the "Property"), which is owned and/or occupied by Debtors.
3. As of the date hereof, the total billed and unpaid, delinquent amount owed City in respect of the post-petition Services provided the Property is \$992.48. This post-petition obligation is due and payable in full immediately and Debtors has refused City's demand to pay same.
4. Wis. Stat. § 66.0809(3) authorizes a Wisconsin municipal utility, such as the City of Milwaukee Water Works, to collect unpaid charges each year utilizing a process by which "the arrears and penalty will be levied as a tax against the lot or parcel of real estate to which utility

service was furnished and for which payment is delinquent.”

5. Wis. Stat. § 62.69(2) sets forth the procedures to be utilized by Milwaukee Water Works to certify such unpaid charges to the City Comptroller for inclusion in the tax roll.

6. To the extent the Property constitutes property of the bankruptcy estate, City petitions this court to modify the automatic stay in order to permit utilization of City’s statutory rights under Wis. Stat. §§ 62.69(2)(f) and 66.0809(3).

7. Should the automatic stay be so modified, pursuant to Wis. Stat. §§ 62.69(2)(f) and 66.0809(3), the unpaid and delinquent amounts due for post-petition Services will be added to the 2022 and all subsequent years real estate tax bill for the Property.

WHEREFORE, the City requests that the automatic stay be modified with respect to the Property pursuant to § 362(d) of the Bankruptcy Code to permit City to utilize the statutory provisions of Wis. Stat. §§ 62.69(2)(f) and 66.0809(3) to seek collection of unpaid, post-petition obligations of Debtors for the Services provided the Property.

Dated at Milwaukee, Wisconsin this 7 day of October, 2022.

TEARMAN SPENCER
City Attorney

/s/ TYLER M. HELSEL
Assistant City Attorney
State Bar No. 1103366
Attorneys for City of Milwaukee

Drafted by:
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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2022, I caused the City of Milwaukee's Notice of Motion and Motion for Relief from and a Modification of the Automatic Stay to be served upon the following parties by enclosing same in an envelope postpaid for first class handling via U.S. Mail or served electronically upon those parties authorized to receive electronic service:

Keith C McDaniel
2808 N 37th St
Milwaukee, WI 53210

Arnold F. Lueders, III
626 E Wisconsin Ave
Ste. 1000
Milwaukee, WI 53202

Martha D McDaniel
2808 N 37th St
Milwaukee, WI 53

Scott Lieske
Chapter 13 Trustee
P.O. Box 510920
Milwaukee, WI 53203

/s/ TYLER M. HELSEL
Assistant City Attorney
Attorney for the City of Milwaukee

Drafted by:
Tyler M. Helsel
Assistant City Attorney
200 East Wells Street, Suite 800
Milwaukee, WI 53202
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